

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

WES BURCH and JANICE BURCH	§	
d/b/a Integrative Communications	§	
	§	
V.	§	CIVIL ACTION NO. G-11-192
	§	
TECHNICAL SYSTEMS INTEGRATORS,	§	
LLC	§	

ORDER

On April 18, 2011, this diversity action was removed from the 405th Judicial District Court of Galveston County, Texas. Following the removal, Plaintiffs, on April 27, 2011, filed an Amended Petition with the state court adding a non-diverse Defendant, Jimmy Finger. Thereafter, on May 17, 2011, Plaintiff filed a Motion to Remand for lack of diversity jurisdiction based upon the Amended Petition.


Under these unusual circumstances, the Court **FINDS** that the Amended Petition is of no jurisdictional consequence in this Court and is not an impediment to any further proceedings in this federal litigation.

Insofar as the Motion to Remand may be construed as an implied motion for leave to amend the Petition which, if granted, would destroy diversity jurisdiction by including a permissive defamation claim to this breach of contract action, it is **DENIED**, without prejudice to being reurged, in proper form, on the merits. Cf. Hensgens v. Deere & Co., 833 F.2d 1179, 1182 (5th Cir. 1987)

It is, therefore, **ORDERED** that the "Plaintiff's Motion to Remand" (Instrument no. 4) is **DENIED**.

The Court expresses no opinion as to the viability, if any, of the Amended Petition in the state court.

DONE at Galveston, Texas, this 21st day of June, 2011.



John R. Froeschner
United States Magistrate Judge